

Serial No.: 09/998,362
Group Art Unit: 2667
Examiner: Blanche Wong

REMARKS

Claims 2-10 and 11-20 remain in this application. Claims 1 and 11 have been cancelled.

The specification has been amended to correct minor errors.

Claims 15, 18 and 19 have been amended to correct a reference to an antecedent.

Claims 3-10 and 13-19 have been objected to as being dependent on a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Claims 5-10 and 18 have been thus rewritten. Claims 12-17 and 19, 20 have been amended to depend directly or indirectly from claims 18, so they are regarded as allowable along with claim 18.

Claims 2, 12, and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Doverspike et al. (Pub. US2002/0097671 A1) ("Doverspike") considered together with Mukherjee et al. (U.S. 6,850,487 B2). As mentioned just above, claims 12 and 20 have been amended to be dependent on claim 18, indicated by the Examiner to be allowable if in independent form. Claim 2 has been amended for clarity.

Applicant believes that the cited references do not teach, suggest, or render obvious certain steps of claim 2. The Examiner's attention is directed to (a) Doverspike Fig. 4 and paragraph [0033] on page 4 and (b) Applicants' Fig. 5 and paragraphs [0040], [0041], and [0044] beginning on page 11.

In Fig. 4, blocks 403-405, Doverspike assigns a certain weight to the available links if they are to be dedicated protection (404) and a different weight if they are to be shared protection (405).

These do not teach the claimed steps of the present application. Applicants' steps include:

"using the database of said one node to identify links that have at least one shareable channel which may be shared between the new protection path and one or more existing protection paths" and

"using the database of said one node to identify links that do not have a shareable channel but do have an unused channel that may be used for said new protection path".

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Then, Applicants recites "assigning weighted costs to said identified links, where links that have at least one shareable channel are weighted" ([0040] of the present specification and illustrated at state 66 of its Fig. 5) "differently than links that do not have a shareable channel but do have an unused channel" ([0041] of the specification and state 70 of its Fig. 5). These steps provide a basis for encouraging more shared paths or, alternatively, encouraging shorter protection paths, as described in [0044] of the present application.

The Examiner has stated that it would have been obvious that the channels have different weight. Applicants respectfully disagree. In Doverspike there is no suggestion of:

- (a) treating shareable channels and unused channels differently, or
- (b) giving a different weight to shareable channels and unused channels, or
- (c) providing a basis for encouraging more shared paths versus shorter protection paths.

Indeed, there is no mention or recognition in Doverspike of the goal in (c) just above or any similar goal.

Applicants use of weighting "where links that have at least one shareable channel are weighted differently than links that do not have a shareable channel but do have an unused channel" in pursuit of a performance goal is submitted to be entirely unforeseeable based on the teachings of Doverspike. It is submitted that Mukherjee et al. has no teachings which change this conclusion. Accordingly, it is submitted that claim 2 is unobvious in view of Doverspike in view of Mukherjee et al.

For the above reasons, the foregoing amendment is believed to place the application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact V. Lawrence Sewell at (972) 519-3735.

Respectfully submitted,

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